

### **REMARKS**

This preliminary amendment is being provided in association with an RCE and is intended to be fully responsive to the Action dated May 17<sup>th</sup>, 2005. In view of the following remarks, favorable reconsideration is respectfully requested.

#### **§102(b) Rejection of Claims 1-12, 15-26, 29-40, 43 and 44**

In **paragraphs 2 and 3** of the Action, claims 1-12, 15-26, 29-40, 43 and 44 were rejected as being anticipated by a patent issued to Robinson (USP 5,544,222) pursuant to 35 USC §102(b). In response, Applicant traverses the rejection of such claims.

In rejecting claims 1, 15 and 29, the Action asserts that elements 44 and 44' anticipate the claimed upstream devices, while elements 45 anticipate the downstream device(s) and that backplane 42 enables the independent communication paths therebetween. In response, Applicant respectfully submits that the Action has failed to establish a prima facie basis for the 102(b) rejection of such claims as the Robinson reference fails to teach enabling simultaneous communication between the downstream device and the first and second upstream devices.

Rather, the citation relied upon in the Action (col. 18, lines 16-21) fails to disclose or suggest enabling simultaneous communication between the downstream device and both first and second upstream devices. That is, the citation merely denotes that the bus 42 enables communication between any control computer 44 and any SNODEM board 45. Insofar as the focus of the Robinson patent appears to be one of fault tolerance and redundancy, the cited disclosure merely supports the point that if a control computer, or a comms path between a control computer and a SNODEM board were to fail, the other control computer or comms path is available in redundancy. Accordingly, Applicant respectfully submits that the Robinson

patent fails to teach the claimed element of enabling simultaneous communication between the downstream device and each of the first and second upstream devices. Moreover, insofar as the document is directed to providing fault tolerance and redundancy, Applicant respectfully submits that one skilled in the art would not be motivated by Robinson to implement the claimed invention.

It is respectfully noted that anticipation under 35 USC § 102 requires the disclosure in a single prior art reference of each element of the claim under consideration. *See Verdegaal Bros. V. Union Oil Co. of California*, 814 F.2d 628, 631, 2 USPQ 2d 1051, 1053 (Fed. Cir. 1987).

However, it is not enough, however, that the prior art reference discloses all the claimed elements in isolation. Rather, “[a]nticipation requires the presence in a single prior reference disclosure of each and every element of the claimed invention, *arranged as in the claim*.” *Lindemann Maschinenfabrik GmbH v. American Hoist & Derrick Co.*, 730 F.2d 1452, 221 USPQ 481, 485 (Fed. Cir. 1984) (citing *Connell v. Sears, Roebuck & Co.*, 722 F.2d 1542, 220 USPQ 193 (Fed. Cir. 1983)) (emphasis added). “The *identical invention* must be shown in as complete detail as is contained in the ... claim.” *Richardson v. Suzuki Motor Co.*, 868 F.2d 1226, 1236, 9 USPQ2d 1913, 1920 (Fed. Cir. 1989); MPEP § 2131 (emphasis added).

Thus, insofar as the Robinson reference fails to teach or suggest that which is claimed in, e.g., rejected claims 1, 15, 29 and 43, Applicant respectfully submits that the Action has failed to establish a prima facie basis supporting the 102(b) rejection thereof. Accordingly, Applicant respectfully requests that the 102(b) rejection of such claims be withdrawn.

Applicant notes that claims 2-12, 16-26, 30-40 and 44 depend from patentable base claims 1, 15, 29 or 43, respectively. Applicant respectfully submits that, in addition to any independent bases for patentability, such claims are likewise patentable over the Robinson

document. Accordingly, Applicant respectfully requests that the §102(b) rejection of such claims be withdrawn.

**§102(b) Rejection of Claims 1-7, 15-21 and 29-36**

In **paragraph 4** of the Action, claims 1-7, 15-21 and 29-36 were rejected as being anticipated by a patent issued to Atkinson (USP 4,669,448) pursuant to 35 USC §102(b). In response, Applicant respectfully traverses the rejection of such claims.

Applicant respectfully submits that the Action has failed to provide reference to any citation within the Atkinson document that teaches (or suggests) that the transceiver(s) communicate with multiple VCC(s) (Fig. 14) or BSC(s) (Fig. 19) simultaneously. Rather, as provided above, the citations relied upon the Action merely provides that Atkinson discloses the use of multiple controllers and/or communication path(s) to provide for redundancy and fault tolerance. Applicant is unable to find disclosure within Atkinson of a transceiver simultaneously communicating with multiple controllers through a communication path independently coupled from the transceiver and the controllers.

It is respectfully noted that anticipation under 35 USC § 102 requires the disclosure in a single prior art reference of each element of the claim under consideration. *See Verdegaal Bros. V. Union Oil Co. of California*, 814 F.2d 628, 631, 2 USPQ 2d 1051, 1053 (Fed. Cir. 1987).

However, it is not enough, however, that the prior art reference discloses all the claimed elements in isolation. Rather, “[a]nticipation requires the presence in a single prior reference disclosure of each and every element of the claimed invention, *arranged as in the claim.*” *Lindemann Maschinenfabrik GmbH v. American Hoist & Derrick Co.*, 730 F.2d 1452, 221 USPQ 481, 485 (Fed. Cir. 1984) (citing *Connell v. Sears, Roebuck & Co.*, 722 F.2d 1542, 220

USPQ 193 (Fed. Cir. 1983)) (emphasis added). “The *identical invention* must be shown in as complete detail as is contained in the ... claim.” *Richardson v. Suzuki Motor Co.*, 868 F.2d 1226, 1236, 9 USPQ2d 1913, 1920 (Fed. Cir. 1989); MPEP § 2131 (emphasis added).

In view of at least the foregoing distinctions, Applicant respectfully submits that the Action has failed to present a prima facie case of anticipation of, e.g., rejected claims 1, 15 or 29. Accordingly, Applicant respectfully requests that the §102(b) rejection of such claims be withdrawn.

Applicant notes that claim 2-7, 16-21 and 30-36 each depend from patentable base claims 1, 15 or 29, respectively. Thus, in addition to any independent bases for patentability, Applicant respectfully submits that such claims are similarly patentable over the Atkinson reference by virtue of at least such dependency. Accordingly, Applicant respectfully requests that the §102(b) rejection of such claims be withdrawn.

#### **§103(a) Rejection of Claims 13, 27, 41 and 45**

In **paragraphs 5, 6 and 7** of the Action, claims 13, 27, 41 and 45 were rejected as being obvious in view of the Robinson reference. In response, Applicant traverses the rejection of these claims.

Applicant notes that the §103(a) rejection of such claims is premised on the Robinson reference. Yet, in the Response to Arguments section, the Action references numerous other documents as evidence that multi-dimensional frames were employed in various networks at the time of the invention. Applicant does not dispute that multi-dimensional frame architectures may have been known at the time of the invention. Rather, Applicant respectfully submits that

Robinson fails to disclose such an architecture, nor would one be motivated by Robinson to implement such a structure.

Moreover, the additional documents relied upon by in the Action in response to Applicant's earlier arguments are employed within a sophisticated communication environment suitable to handle/process such multi-dimensional frames. In contrast, Robinson and Atkinson (typical of the prior art that the claimed invention was designed to overcome) employ more rudimentary serial communication paths and, as such, an artisan would not be motivated by such references to implement a multi-dimensional frame architecture within such a communication environment.

Thus, Applicant respectfully submits that the motivation of "increasing throughput" described in the Action is simply not supported by the Robinson reference. That is, Applicant respectfully submits that the Robinson reference fails to provide the motivation relied upon in the Action. Applicant notes that absent such motivation, the Action has failed to establish a prima facie basis for the rejection, and respectfully requests that the rejection of such claim be withdrawn.

Notwithstanding the foregoing, Applicant notes that claims 13, 27, 41 and 45 depend from patentable base claims 1, 26, 29 or 43. Thus, in addition to the independent bases of patentability, e.g., disclosed above, Applicant respectfully submits that claims 13, 27, 41 and 45 are likewise patentable over the Robinson reference by virtue of at least such dependency. In view of the reasons presented above, Applicant respectfully requests that the §103(a) rejection of claims 13, 27, 41 and 45 be withdrawn.

**§103(a) Rejection of claims 8-13, 22-27, 36-41 and 43-45**

In **paragraph 8** of the Action, claims 8-13, 22-27, 36-41 and 43-45 were rejected as being unpatentable over the Atkinson reference in view of the Robinson reference. In response, Applicant respectfully traverses the rejection of such claims.

Without accepting or adopting the characterization of the rejected claims or the referenced documents, Applicant respectfully submits that claims 8-13, 22-27, 36-41 and 43-45 each depend from patentable base claims. Thus, in addition to any independent bases for patentability, Applicant respectfully submits that such claims are patentable over the cited documents by virtue of at least such dependency. Accordingly, Applicant respectfully requests that the rejection of such claims be withdrawn.

#### CONCLUSION

Applicant respectfully submits that claims 1-13, 15-27, 29-41 and 43-45 are in condition for allowance and such action is earnestly solicited. *The Examiner is respectfully requested to contact the undersigned by telephone if it is believed that such contact would further the examination of the present application.*

Please charge any shortages and credit any overcharges to our Deposit Account number 50-0221.

Respectfully submitted,  
STEVEN W. KECK, ET AL.

Date: September 19, 2005

by: /s/ Michael A. Proksch/ / Reg. No. 43,021 /

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